

REPUBLIC OF THE PHILIPPINES  
**COURT OF TAX APPEALS**  
QUEZON CITY

**THIRD DIVISION**

LEPANTO CONSOLIDATED  
MINING COMPANY,  
Petitioner,

CTA CASE NO. 8889

Members:

- versus -

BAUTISTA, *Chairperson*  
FABON-VICTORINO, *and*  
RINGPIS-LIBAN, JJ.

Promulgated:

COMMISSIONER OF INTERNAL  
REVENUE,  
Respondent.

APR 13 2015

*ceh 4:05 p.m.*

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**RESOLUTION**

***FABON-VICTORINO, J.:***

In its *Motion for Reconsideration [Of the Order of Dismissal issued in Open Court on 29 January 2015]* posted on February 17, 2015, to which respondent filed her *Comment/Opposition* on March 9, 2015, petitioner seeks to reverse the ruling given in open Court on January 29, 2015, ordering the dismissal of the instant petition for failure of petitioner to file the required *Pre-trial Brief*.

Petitioner explains that its failure to file a *Pre-trial Brief* was due to inadvertence on the part of the support staff of its counsel to route the *Notice of Preliminary Conference* setting the case for pre-trial conference and directing it to file the required brief. It was only in the afternoon of January 28, 2015, when counsel learned about the *Pre-trial Conference* set the next day - January 29, 2015. By then it was already too late for counsel to intelligently prepare and file the required brief. Petitioner invokes substantial justice

and liberal application of the rules, in its quests for reconsideration of order of dismissal with the prayer to admit the attached *Pre-trial Brief*.

In rejecting petitioner's plea for reconsideration, respondent counter's that the dismissal of the present case is in accordance with the Rules of Court (*Rules*). For respondent, the rules are required to be followed and its utter disregard cannot simply be ignored on ground of liberal construction and application of the rules.

Further, respondent argues that relaxation or suspension of the *Rules* should only be for persuasive reasons and only for meritorious cases. According to respondent, a party asking for the suspension of the *Rules* comes with the heavy burden of proving that he deserves to be accorded exceptional treatment.<sup>1</sup> Respondent posits that this is not obtaining in the present case.

After taking a second hard look at the arguments of both parties *vis-a-vis* the applicable law and jurisprudence, the Court finds petitioner's *Motion for Reconsideration* impressed with merit.

It has been ruled that the dismissal of an action for failure to file pre-trial brief is discretionary on the part of the trial court.

Section 6, Rule 18 of the *Rules* mandates that parties shall file with the court and serve on the adverse party their pre-trial briefs at least three days before the scheduled pre-trial. The *Rules* also provide that failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial. Therefore, petitioner's failure to file the pre-trial brief shall be cause for dismissal of the action.

However, whether an order of dismissal should be maintained under the circumstances of a particular case or



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<sup>1</sup> *Pates vs. COMELEC*, G.R. No. 184915, June 30, 2009 citing *Prudential Guarantee and Assurance, Inc. v. Court of Appeals*, G.R. No. 146559, August 13, 2004.

whether it should be set aside likewise depends on the sound discretion of the trial court.<sup>2</sup>

The Court finds the failure to file the required pre-trial brief unintentional and neither meant to cause delay in the proceedings nor show disrespect to Court but solely due to cited circumstances.

While it is true that procedural rules are not to be belittled or simply disregarded for these prescribed procedures insure an orderly and speedy administration of justice, it is equally true that litigation is not merely a game of technicalities. Law and jurisprudence grant to courts the prerogative to relax compliance with procedural rules even the most mandatory character, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.<sup>3</sup>

This is not to say that adherence to the *Rules* could be dispensed with. However, exigencies and situations might occasionally demand flexibility in their application.<sup>4</sup> Considering the circumstances attendant to the present case, substantial justice can be best served if both parties are given the full opportunity to ventilate their respective claims in a full-blown trial.

**WHEREFORE**, petitioner's *Motion for Reconsideration* is hereby **GRANTED**. Accordingly, the *Order of Dismissal* issued in open court on January 29, 2015 and confirmed in the *Resolution* of February 4, 2015, is **SET ASIDE**.

The attached Pre-trial Brief is **ADMITTED** to form part of the record of the case.

Set this case for pre-trial conference on May 26, 2015, at 9:00 a.m.

**SO ORDERED.**

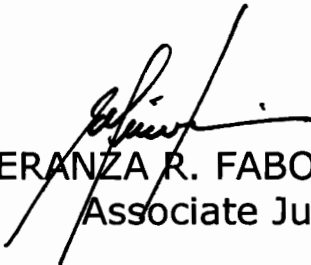


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<sup>2</sup> *Pacweld Steel Corp. v. Asia Steel Corp.*, 203 Phil. 606 (1982).

<sup>3</sup> *Barranco v. Commission on the Settlement of Land Problems*, G.R. No. 168990, June 16, 2006, 491 SCRA 222, 232, citing *Reyes v. Torres*, 429 Phil. 95, 101 (2002).

<sup>4</sup> *Polanco v. Cruz*, G.R. No. 182426, February 13, 2009.



ESPERANZA R. FABON-VICTORINO  
Associate Justice

We Concur:



LOVELL R. BAUTISTA  
Associate Justice



MA. BELEN M. RINGPIS-LIBAN  
Associate Justice